



further informal discussions or even a second mediation to potentially reach an agreement. This is the continuance sought jointly by the Plaintiffs in this matter based upon the retention of new counsel.

## **II. BACKGROUND**

4. This action arises out of Plaintiffs' insurance claim for property damage resulting from a fire occurring at Plaintiffs' property located at 106 Red Alder Trail, San Antonio, Texas 78256 on or about September 11, 2021. Plaintiffs filed their lawsuit against Liberty in state court on March 17, 2023, to which Liberty answered on April 17, 2023. Liberty then removed this case to Federal court on April 26, 2023. [Doc. 1].

5. On June 19, 2023, after receiving the Parties' Scheduling Recommendations, the Court issued a Scheduling Order [Doc. 10] establishing certain pretrial deadlines to govern the progression of this case. On November 13, 2023, the Court issued an Amended Scheduling Order in the case. [Doc. 19]. On January 16, 2024, the Court issued a Second Amended Scheduling Order in the case, with a trial date of September 16, 2024.

## **III. ARGUMENTS & AUTHORITIES**

6. Plaintiffs seek a continuance in this matter to complete discovery, advance settlement efforts and allow for a possible second mediation. Plaintiffs request that the Court reset the trial date and pretrial conference to dates of the court's choosing.

7. Plaintiffs further request that all remaining pretrial deadlines in this action be amended and extended to correspond with the new trial setting. More specifically, the Plaintiffs respectfully request that the Court enter a Third Amended Scheduling Order amending and

extending the currently applicable pretrial deadlines and trial date. Plaintiffs request the following proposed dates:

EXISTING DEADLINE	PROPOSED DEADLINE	
	July 2024	Designation of Experts – Asserting claims for relief
December 15, 2023	August 2024	Designation of Experts – Resisting claims for relief
March 18, 2024	September 2024	Alternative Dispute Resolution/Mediation
April 26, 2024	December 2024	Completions of Discovery
May 16, 2024	January 2025	Pre-Trial Motions
July 26, 2024	January 2025	Disclosures under Rule 26(a)(3)
August 9, 2024	February 2025	Objections under Rule 26(a)(3)
August 23, 2024	March 2025	Joint Pre-Trial Order & Motion in Limine
September 5, 2024	April 2025	Final Pre-Trial Conference
September 16, 2024	April 2025	Jury Trial

8. This request for an extension of time conforms with the purpose of the Federal Rules of Civil Procedure. Under Rule 16(b), the scheduling order may be modified for “good cause.” *See* Fed.R.Civ.P. 16(b). To show “good cause,” the moving party is required to “show that it has been diligent in attempting to meet the deadlines, which means it must provide *an adequate explanation* for any delay.” *See Minter v. Prime Equipment Co.*, 451 F.3d 1196, Fn. 4 (10<sup>th</sup> Cir. 2006), *citing Parker v. Columbia Pictures*, 204 F.3d 326, 340-41 (10<sup>th</sup> Cir. 2000).

9. Continuance of the current trial date (and extension of associated deadlines) will enable the Parties to complete the depositions of key witnesses, to explore the potential for settlement of this dispute, and to engage in motion practice (as appropriate) before incurring the potentially avoidable time, burden, and expense of preparing for a trial on the merits.

10. This request for continuance and extension of pretrial deadlines is not made for delay, but so that justice may be done. As set forth above, the Plaintiffs and their counsel believe that proceeding in the manner requested will maximize the possibility of an orderly, efficient, and cost-effective resolution of their dispute, hopefully without the necessity of a trial on the merits.

**IV.  
PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiffs request that the Court exercise its broad discretion under Federal Rule of Civil Procedure 16 with respect to the pretrial management of this case by (a) granting this Motion in its entirety; (b) removing this matter from the Court's trial docket for September 16, 2024; (c) resetting this case for trial on the earliest available date on or after April 1, 2025; and (d) entering the proposed Third Amended Scheduling Order submitted with this Motion.

Respectfully submitted,

**LOREE & LIPSCOMB**

*/s/ Cassandra Pruski*

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**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF CONFERENCE**

I hereby certify that my office conferred with David Stephens, attorney for Defendant, on April 26, 2024, regarding the relief requested in this motion. Mr. Stephens advised that Defendant is not opposed to this motion and agrees to the relief requested herein.

/s/ Cassandra Pruski

Cassandra Pruski

**CERTIFICATE OF SERVICE**

On this 26 day of April 2024, a true and correct copy of the foregoing was served upon all known counsel of record pursuant to the Federal Rules of Civil Procedure as follows:

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/s/ Cassandra Pruski

Cassandra Pruski